

**REMARKS**

Claims 1-28 have been cancelled. New Claims 29-41 have been added. Claims 29 and 36 are in independent form. No new matter has been added.

**Claim Rejections Under 35 U.S.C. §112**

Claims 16, 20 and 26 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has cancelled Claims 16, 20 and 26. Therefore, Applicant respectfully submits that the asserted rejections are now moot. New Claims 29-41 have been carefully drafted to comply with the requirements of 35 U.S.C. §112.

**Previous Claim Rejections**

Claims 16-20, 22, 24 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Boylan et al. (U.S. Patent 5,265,877) in view of Cudlipp (U.S. Patent 6,152,448).

Claims 16-19 were rejected under 35 U.S.C. §102(e) as being anticipated by Cudlipp.

Claims 16-20, 22, 24 and 25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Cudlipp.

Claims 21, 23 and 26-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Cudlipp or Boylan et al. in view of Santora et al. (U.S. Patent 4,357,015).

Boylan discloses a method of playing a wagering game where the primary objective is to provide one or more additional symbols that determine whether a different payoff should be made (Column 1, Lines 12-16). Numerous examples and adaptations of this wagering method are applied to various styles of game play. In Figure 5, the additional wagering method is loosely applied to a roulette-like game. The description of game play according to Figure 5 is set forth in Column 12, Line 40 - Column 13, Line 2. As described in Column 12, Lines 40-41, the method of playing the roulette-like system (88) is "broadly similar to playing system 54." And again, in Column 12, Lines 59-60, it states "As with playing system 54 discussed above, playing system 88 is used in a similar manner."

What, therefore, is "playing system 54"? Referring to the description of Figure 3 appearing in Column 11, Lines 28 - Column 12, Line 39, playing system (54) includes a selection device (60) having four isolated containers (66). Each container (66) is covered with a top (68), in which is provided a single aperture (70). One ball (72) is introduced into each container (66) so that it will "bounce around and finally come to rest upon (randomly select) one of representations 62 or 64." (See Column 11, Lines 45-47). Figure 4 is an enlarged view of the selection device (60) wherein each container (66) includes 16 representations arranged in a 4 x 4 grid pattern. The wagering layout area of the table game depicted in Figure 3 corresponds to the representations (62, 64) reproduced in the 4 x 4 grids of the selection device (60).

Turning now to Figure 5, which is described as operating "broadly similar" and "in a similar manner" with playing system 54 (i.e., Figures 3 and 4), we see that a selection device (92) is represented in substantially identical form to that depicted in Figure 3. Four isolated containers are provided with holes, and a selection of four tiny balls are located immediately thereabove – just like in Figure 3. In Column 12, Lines 43-46, the selection device (92) is

described as having a layout “in the same manner as a grid 94 provided on surface 90.” Grid (94) is illustrated in Figure 5. Thus, in some fashion which is not clearly described, the grid pattern (94) depicted in Figure 5 is divided among four containers in the selection device (92) such that a ball dropped through a small hole in the cover of each container comes to rest upon some representation of the reproduced grid (94).

Further on in Boylan, a description is provided of an alternative device used for determining a game of chance played according to the techniques of this invention. Presumably, this alternative device could replace the selection device (92). The description here begins at Column 16, Line 30 and continues on for many paragraphs. According to this alternative technique, a ball blower device (182) called a “mixing chamber” randomly shuffles a plurality of balls into a transparent tube (188). The collective plurality of balls in the tube (188) determine the chance outcome of the game. Examples are provided of the chute 188 containing six balls (Column 16, Lines 58-59), and containing nine balls (Column 16, Line 67).

Yet another alternative embodiment of the selection device is depicted in Figure 13 and described in the text beginning in Column 17, Line 59. Here, a ball blower (200) is shown including a relatively short tube (204) that admits only one ball. It is by no means readily apparent how the alternative selection means (200) depicted in Figure 13 could be applied to the roulette system of Figure 5, but in any event, it could not be used to replicate game play according to the conventional rules of roulette. Contained within the mixing chamber (200), are a plurality of plain balls 202, together with various chance balls (186a) and (186b). These balls do not include numbered indicia, and therefore would utterly disturb and frustrate game play according to the conventional rules of roulette.

Applicant's invention, as defined in the newly submitted Claims 29-41, sets forth both method and apparatus claims which are not anticipated by Boylan.

Cudlipp discloses a game of chance wherein a plurality of balls (e.g., 88 balls) of various colors are agitated in a ball blower device (Column 4, Lines 50-52). Cudlipp fails to teach a game play method as now distinctly recited in independent Claim 29. Likewise, Cudlipp fails to disclose an apparatus for playing a game as set forth in new Claim 36.

Even assuming, arguendo, that Boylan could be modified with the teachings of Cudlipp in some fashion, there still exists a number of features that are not taught by either reference, but which are positively recited in Applicant's new claims. Therefore, it is respectfully submitted that the rejections under §§103(a) and 102(e) based in whole or in part on Cudlipp are likewise overcome in the newly presented claims.

**Accompanying Affidavit Under 37 C.F.R. §1.132**

The Applicant submits herewith a duly executed Affidavit from Mark Hamilton Jones pursuant to 37 C.F.R. §1.132. The Applicant's purpose in submitting this Affidavit is three-fold. Firstly, the Applicant wishes to emphasize the advantages of this invention and to make certain that the connection between those advantages and the claimed subject matter is readily apparent. Secondly, the inventor (who is also a recognized expert in Table Games) substantiates the claim language used in independent Claims 29 and 36, which identifies the use of either 37 or 38 balls in compliance with the conventional rules of roulette referenced in the patent specification. Thirdly, the Affidavit presents, in introductory fashion, evidence of commercial success for the claimed invention through numerous licenses granted to third parties so that they may lawfully practice the methods and use apparatus covered by at least one of Claims 29-41.

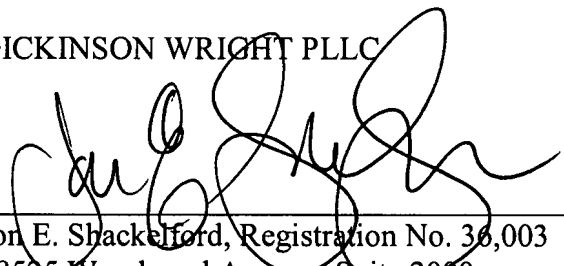
Reconsideration of this application as amended is therefore respectfully requested on the basis of these amendments.

It is believed that this application is now in condition for allowance, or at least in better form for appeal. Further and favorable action is requested.

The Patent Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 04-1061.

Respectfully submitted,

DICKINSON WRIGHT PLLC



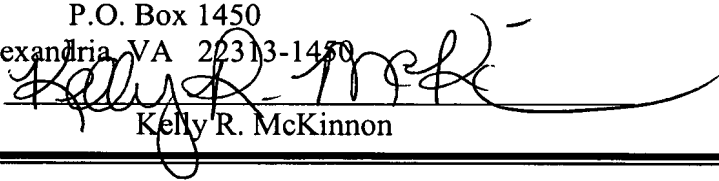
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